

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**IN RE:  
Arturo Garcia**

**DEBTOR(S)**

§  
§  
§  
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**CASE NO: 16-52882G**

**CHAPTER 13**

**DEBTOR'S MOTION TO MODIFY CHAPTER 13 PLAN  
AND FIRST REQUEST FOR ATTORNEY'S FEES**

**AN ORDER WILL BE ENTERED GRANTING THE RELIEF REQUESTED HEREIN WITHOUT FURTHER HEARING UNLESS A WRITTEN OBJECTION AND REQUEST FOR HEARING IS FILED WITH THE CLERK WITHIN TWENTY-ONE (21) DAYS AFTER THE DATE OF ISSUANCE OF THIS NOTICE. ANY SUCH OBJECTION MUST ALSO BE SERVED UPON THE MOVING PARTY AND UPON ALL OTHER PERSONS INDICATED ON THE CERTIFICATE OF SERVICE ATTACHED TO THIS PLEADING.**

**TO THE HONORABLE JUDGE Craig A. Gargotta:**

Arturo Garcia, ("Debtor") moves to modify the Debtor's Chapter 13 Plan under 11 U.S.C. § 1329 and Bankruptcy Rule 3015.

**1. Jurisdiction**

Jurisdiction is proper under 28 U.S.C. § 1334. This is a "core-proceeding" pursuant to 28 U.S.C. § 157 (b)(2). Further, this is a "contested matter" governed by Bankruptcy Rule 9014.

**2. Background**

The Debtor filed a Chapter 13 bankruptcy petition on December 13, 2016. The court confirmed the Chapter 13 Plan on February 28, 2017.

**3. Grounds for Modification**

The Debtor experienced a substantial and unexpected change in circumstances since the entry of the order confirming the plan. Debtor became delinquent with his mortgage payments due to misunderstanding. As a result, Debtor is required to add post-petition arrears of \$5,786.64 into the chapter 13 plan per an Agreed Order Modifying Stay entered into between Debtor and Select Portfolio Servicing on September 15, 2017.



#### 4. Terms to be Modified

Debtor requests that the Chapter 13 Plan be modified to allow \$5,786.64 in post-petition mortgage arrears be added into the plan. The new plan payment of \$600.00 will begin December 2017.

The following reflect the terms of the current plan and of the proposed modified plan:

<b>Chapter 13 Plan Terms</b>	<b>Current Plan</b>	<b>Proposed Plan</b>
Plan Payment	\$530.00	\$600.00
Term (from date of Confirmation)	58 months	58 months
Plan % (approx. dividend to unsecured creditors)	28%	14%
ACP (Applicable Commitment Period)	36 months	

The following identifies the specific monthly payments payable by the Trustee through the plan to the secured and priority creditors:

<b>Creditor</b>	<b>Claim #</b>	<b>Current Plan</b>	<b>Proposed Plan</b>
Select Portfolio Servicing	9	Pro Rata	Pro Rata
Propel Financial Services	5	\$121.00	\$121.00
Flexi Compras Autos	2	\$249.00	\$249.00
J. Todd Malaise - Base Attorney's Fees		\$100.00	\$100.00
J. Todd Malaise - Admin Priority (All)			*see below*

These modifications reflect the only terms sought to be modified by this motion. All existing terms and provisions of the current Chapter 13 Plan not modified above remain in effect.

Further, the dividend payable to unsecured creditors is greater than the value of non-exempt property and greater than the amount that the unsecured creditors would receive if this case was converted to a Chapter 7.

#### 5. Request for Attorney's Fees

Counsel for Debtor incurred additional attorney fees and costs related to this matter and asks that he be awarded \$755.23 (\$702.50 attorney fees, \$25.97 postage fees, \$26.46 copy fees, and \$0.30 pacer fees) as reasonable and necessary services and that said amount be paid as an administrative claim by the Trustee through the Chapter 13 Plan payable in full upon entry of this order or as funds become available. Payment of this claim may delay payment of the scheduled monthly payment on secured and priority claims. A description of these services is



attached as "Exhibit A". These services were unanticipated and were not included in the base, "no look" fee award. A history of the attorney fees awarded in this case is attached hereto as "Exhibit B".

**PRAYER**

Wherefore, premises considered, Debtor prays that this Court approve this Motion to Modify Chapter 13 Plan and First Request for Attorney's Fees.

Respectfully submitted,

**MALAISE LAW FIRM**

909 NE Loop 410, Suite 300  
San Antonio, Texas 78209  
Telephone: (210) 732-6699  
Telecopier: (210) 732-5826

By: 

J. Todd Malaise, SBN 00796984  
David C. Werner, SBN 00797651  
Steven G. Cennamo, SBN 04045600  
Teresa K. Howard, SBN 24049025  
**ATTORNEYS FOR DEBTOR**

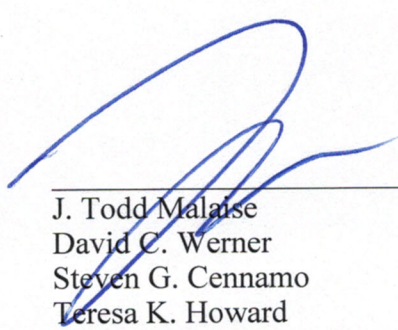


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on November 30, 20 17, service of a copy of the attached has been accomplished by **CM/ECF to Mary K. Viegelahn, Chapter 13 Trustee**, and by first class mail, postage paid, or hand delivered to the parties in interest listed below and to all parties listed on the attached mailing matrix.

U.S. Trustee  
615 E. Houston, Rm #533  
San Antonio, Texas 78205

Arturo Garcia  
5603 Staack Ave.  
San Antonio, TX 78240



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J. Todd Malaise  
David C. Werner  
Steven G. Cennamo  
Teresa K. Howard

gmp

Label Matrix for local noticing  
0542-5  
Case 16-52882-cag  
Western District of Texas  
San Antonio  
Tue Oct 17 16:29:00 CDT 2017

Ace Finance Company  
7121 W Hwy 90, Ste 232  
San Antonio, TX 78227

Asset Acceptance Corp  
P.O. Box 2036  
Warren, MI 48090-2036

Bexar County  
c/o Don Stecker  
Linebarger Goggan Blair & Sampson  
711 Navarro, Ste. 300  
San Antonio, TX 78205-1749

Business & Professional Services  
Attn: Bankruptcy  
621 N. Alamo St.  
San Antonio, TX 78215-1836

Convergent Healthcare Recoveries, Inc.  
124 SW Adams St., Ste. 215  
Peoria, IL 61602-2321

Credit Systems International, Inc  
1277 Country Club Lane  
Fort Worth, TX 76112-2304

Elsa Garcia  
5603 Staack Ave.  
San Antonio, TX 78240-2442

Financial Corporation Of America  
12515 Research Blvd. Ste 100  
Austin, TX 78759-2247

Flexi Compras Autos  
6840 S. Pan Am Expressway  
San Antonio, TX 78224-1124

U.S. BANKRUPTCY COURT  
615 E. HOUSTON STREET, ROOM 597  
SAN ANTONIO, TX 78205-2055

Ad Astra Recovery  
7330 W 33rd St Ste 118  
Wichita, KS 67205-9370

Attorney General of the US  
Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530-0009

Bridgecrest Credit Company LLC  
PO Box 29018  
Phoenix, AZ 85038-9018

CMRE Financial Services, Inc.  
3075 E. Imperial Highway, #200  
Brea, CA 92821-6753

Credit Collection Services  
2 Wells Ave. Dept. 9135  
Newton, MA 02459-3225

DriveTime Credit Co  
Attention: Bankruptcy  
4020 E Indian School Rd  
Phoenix, AZ 85018-5220

Financial Control Services  
200 N New Rd  
Waco, TX 76710-6932

First Financial Asset Mgmt  
PO Box 901  
Fort Mill, SC. 29716-0901

Flexi Compras Autos, LLC  
1111 W. Mockingbird Lane, Suite 1500  
Dallas, Texas 75247-5070

AFNI  
404 Brock Drive  
P.O. Box 3517  
Bloomington, IL 61702-3517

Ameripath San Antonio  
P.O. Box 844859  
Dallas, TX 75284-4859

Bexar County  
c/o Bradley S. Balderrama  
711 Navarro, Suite 300  
San Antonio, TX 78205-1749

Broadway Finance  
1115 SW Military Dr, Suite 102  
San Antonio, TX 78221-1698

Cash Store  
1904 Gateway Drive, Ste. 200  
Irving, TX 75038

Credit Control, LLC  
5757 Phantom Drive  
Hazelwood, MO 63042-2429

Elsa D. Garcia  
5603 Staack Ave.  
San Antonio, TX 78240-2442

Financial Control Services  
6801 Sanger Avenue, Ste. 195  
Waco, TX 76710-7804

First National Collection Bureau, Inc.  
610 Waltham Way  
Sparks, NV 89434-6695

Franklin Collection Service  
P.O. Box 3910  
Tupelo, MS 38803-3910



Greater San Antonio Emergency  
PO Box 15070  
Scottsdale, AZ 85267-5070

Harrison & Duncan PLLC  
8700 Crownhill, Ste. 505  
San Antonio, TX 78209-1130

IC Systems, Inc  
444 Highway 96 East  
St Paul, MN 55127-2557

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

LVNV Funding, LLC  
PO Box 10584  
Greenville, SC 29603-0584

LVNV Funding, LLC its successors and assigns  
assignee of GE Money Bank  
Resurgent Capital Services  
PO Box 10587  
Greenville, SC 29603-0587

Medical Business Bureau LLC  
1175 Devin Dr., Ste. 172  
Muskegon, MI 49441-6079

Medicredit, Inc.  
PO Box 1629  
Maryland Heights, MO 63043-0629

Methodist Hospital  
Resurgent Capital Services  
PO Box 1927  
Greenville, SC 29602-1927

Midwest Recovery Fund LLC  
12100 Single Tree Lane, Ste. 163  
Eden Prairie, MN 55344-7952

NCB Management Service  
1 Allied Dr  
Trevose, PA 19053-6945

NPAS Solutions  
PO Box 33188  
Louisville, KY 40232-3188

Nations Recovery Center  
6491 Peachtree Industrial Blvd.  
Atlanta, GA 30360-2100

Niagara Credit Solutions, Inc.  
420 Lawrence Bell Drive, Ste. 2  
Buffalo, NY 14221-8820

PRA Receivables Management, LLC  
PO Box 41021  
Norfolk, VA 23541-1021

Propel Financial Services  
7990 IH 10 West, Ste. 200  
San Antonio, TX 78230-4786

Propel Financial Services, LLC, Agent & Atto  
In Fact for PFS Tax Lien Trust 2014-1  
7990 IH-10 West, Suite 200  
San Antonio, Texas 78230-4786

Regional Adjustment Bureau  
P.O. Box 1022  
Wixom, MI 48393-1022

Reviver Financial, LLC  
PO Box 3023  
Attn: Bankruptcy Department  
Hutchinson, KS 67504-3023

Sarma Collections  
1801 Broadway  
San Antonio, TX 78215-1227

Select Portfolio Servicing, Inc  
PO Box 65250  
Salt Lake City, UT 84165-0250

Select Portfolio Servicing, Inc.  
c/o Shapiro Schwartz  
13105 Northwest Fwy., Suite 1200  
Houston, TX 77040-6355

Shapiro Schwartz, LLP  
13105 Northwest Freeway, Suite 1200  
Houston, TX 77040-6355

Speedy Cash  
P.O. Box 780408  
Wichita, KS 67278-0408

(p)WACHOVIA BANK NA  
MAC X2303-01A  
1 HOME CAMPUS  
1ST FLOOR  
DES MOINES IA 50328-0001

US Attorney's Office  
601 NW Loop 410, Ste 600  
San Antonio, TX 78216-5597

United States Trustee - SA12  
US Trustee's Office  
615 E Houston, Suite 533  
PO Box 1539  
San Antonio, TX 78295-1539

VA Regional Office  
Office of District Counsel  
2515 Murworth Dr  
Houston, TX 77054-1603

West Asset Management  
2703 N. Highway 75  
Sherman, TX 75090-2567

Arturo Garcia  
5603 Staack Ave.  
San Antonio, TX 78240-2442

J. Todd Malaise  
909 NE Loop 410, Suite 300  
San Antonio, TX 78209-1315

J. Todd Malaise02  
Malaise Law Firm  
909 NE Loop 410, Suite 300  
San Antonio, TX 78209-1315

J. Todd Malaise04  
Malaise Law Firm  
909 NE Loop 410, Suite 300  
San Antonio, TX 78209-1315

Mary K Viegelahn  
Chapter 13 Trustee  
10500 Heritage Blvd Suite 201  
San Antonio, TX 78216-3631

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

The Money Store  
P.O. Box 13716  
Sacramento, CA 95853

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Select Portfolio Servicing, Inc.  
PO Box 65250  
Salt Lake City, UT 84165-0250

End of Label Matrix	
Mailable recipients	63
Bypassed recipients	1
Total	64







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**IN RE:**

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**DEBTOR(S)**

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**CASE NO. 16-52882G**

**CHAPTER 13**

**ATTORNEY'S FEE EXHIBIT**

<b>DATE FILED</b>	<b>FEES AWARDED</b>	<b>FEES PENDING</b>	<b>DOCUMENT FILED</b>
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**SUMMARY**

Fees Awarded at Confirmation:	\$3,600.00
Total post confirmation fees awarded:	\$0.00
Total post confirmation fees pending:	\$0.00

**"EXHIBIT B"**